

## **SECURITIES COMMISSION GUIDELINES ON UNIT TRUST FUNDS, PROPERTY TRUST FUNDS AND CLOSED-END FUNDS**

The Securities Commission Act 1993 provides that the Securities Commission (SC) is responsible for regulating all matters relating to unit trust schemes which would include unit trust funds and property trust funds, and other collective investment schemes such as closed-end funds. While unit trusts and closed-end funds seek to mobilise retail funds for professionally managed investments in a portfolio of authorised investments, a property trust fund invests its fund in real estate.

Guidelines have been issued by the SC for the establishment of unit trust and property trust funds and the public offering of securities of closed-end funds. The latest revised Guidelines on Unit Trust Funds and Property Trust Funds were issued on 10th March 1994 and 26th June 1995 respectively. The Guidelines for Public Offerings of Securities of Closed-End Funds were issued on 30th October 1995.

The following is a brief summary of the guidelines.

### **GUIDELINES ON UNIT TRUST FUNDS**

#### **Size of Unit Trust Fund**

The size of a unit trust fund shall not be more than 500 million units. Where the existing size of the fund is less than 500 million units, the prior approval of the SC is required for any subsequent increase. The initial issue price shall be at RM1.00 per unit during the launching and offer period which shall not exceed 30 days.

#### **Permitted Investments**

A unit trust fund can only invest in authorised assets which are defined as follows:

- 1 Securities of companies listed on Kuala Lumpur Stock Exchange (KLSE);
- 2 Units of unrelated property trust funds listed on the KLSE;
- 3 Securities listed on a foreign stock exchange;

- 4 Unlisted securities that have been approved by the Securities Commission (SC) for listing and quotation on KLSE, which are offered directly by the company approved for listing, by way of private placement or on a tender basis;
- 5 Malaysian Government Securities, Treasury Bills, Bank Negara Malaysia Certificates and Government Investment Certificates;
- 6 Malaysian currency balances in hand, Malaysian currency deposits with commercial banks, finance companies, merchant banks and Bank Islam Malaysia Bhd, including Negotiable Certificates of Deposit, and placements of money at call with discount houses;
- 7 Cagamas bonds, bankers' acceptances, unlisted loan stocks and corporate bonds that are traded in the money market and either bank-guaranteed or carrying at least BBB rating by Rating Agency of Malaysia Bhd (RAM) and private debt securities that have an equivalent rating by RAM; and
- 8 Any other form of investments as may be approved by the SC from time to time.

### Investment Limits

- 1 A unit trust fund is permitted to invest up to 10% of the net asset value of the fund in securities listed on a foreign stock exchange. In this regard, the prior specific approval of the SC must be obtained before undertaking such investments.
- 2 A unit trust fund shall not invest more than 50% of the net asset value of the fund in non-trustee securities.
- 3 Investments by a unit trust fund in the securities of any company shall not exceed 10% of the net asset value of the fund, or 10% of the issued capital of the company, whichever is lower.
- 4 Investments by a unit trust fund in any group of companies shall not exceed 15% of the net asset value of the fund.



- 5 The above limits shall exclude holdings that arise from entitlements accruing on the investments held.
- 6 Compliance with the guidelines on permitted investments are considered at the point of purchase, based on the cost of the assets when the assets are included into the composition of the fund.

### **The Management Company**

A unit trust fund must appoint a management company which must be approved by the SC. The management company should be a subsidiary of a financial institution under the jurisdiction of Bank Negara Malaysia, or any other institution which the SC may permit. On 12th September 1995, the Securities Commission permitted stockbroking companies to operate unit trust funds, through a subsidiary of the stockbroking company. The management company should be at least 70% owned by Malaysians, with 30% Bumiputera ownership. Foreign ownership should not be more than 30%.

### **Liquid Assets**

The level of liquid assets in a unit trust fund shall be at least 10% of the net asset value of the fund.

### **Trust Borrowings**

A unit trust is not allowed to borrow to finance its activities.

### **Accounts to Unit Holders**

The audited yearly accounts shall be forwarded to unitholders within two months from the end of each period.

## **GUIDELINES ON PROPERTY TRUST FUNDS**

### **Size of Fund**

The minimum size shall be 100 million units. The prior approval of the SC is required for any subsequent increase in the fund size limit.

### **Properties to be purchased**

Properties that may be acquired by property trust funds include properties which have no earnings/rental track record but have good income prospects; buildings which are not fully tenanted out provided there are good prospects to secure tenants; equities of companies which own properties instead of purchasing the properties themselves where there are valid commercial reasons for doing so; partial interest in a property where the property cannot be wholly-acquired, provided that major ownership and control is obtained with that acquisition; properties located outside Malaysia, provided the property trust fund making the acquisition is a listed fund.

While property trust fund cannot invest in uncompleted property development projects, they may enter into an agreement to purchase the property upon its completion.

Cash acquisitions of properties are now required to be submitted to the SC for its perusal before the acquisitions are effected.

### **Management Company**

A property trust fund must be administered by a management company that is acceptable to the SC. The management company must be linked to a financial institution supervised by Bank Negara Malaysia and must initially be a subsidiary of such a financial institution, which would have the option to divest part of its shareholding in the future. The management company must be incorporated in Malaysia, not a property development company or a subsidiary of such a company. At least 30% of the management company's paid-up capital must be owned by Bumiputera.



## **Acquisitions of Properties**

Any acquisition of properties which is to be satisfied partly or wholly by the issue of new units is subject to the SC's approval. Cash acquisitions of properties are now required to be submitted to the SC for its perusal before the acquisitions are effected.

Where properties are acquired from related parties/associates, such properties should have been held by the vendors for at least a period of three years. However, the property trust is not allowed to subsequently dispose off such properties to any related parties/associates.

A real property investment cannot be acquired by the trustee at a price higher than the value assessed in the valuation report given to the trustee not more than 3 months before the date of the manager's proposal, provided that, since the last valuation date, no circumstances have arisen to materially affect the valuation and that, where applicable, the valuation has not been revised by the SC.

## **Disposal of Properties**

All properties disposed off by the property trust must have been held by the trust for a minimum period of two years from the date of acquisition.

A property shall not be sold by the trustee at a price lower than 90% of the value assessed in the valuation report given to the trustee not more than 3 months before the date of the disposal, provided that, since the last valuation date, no circumstances have arisen to materially affect the valuation and that, where applicable, the valuation has not been revised by the SC.

## **Authorised Investments**

At least 75% of the size of the fund of an unlisted trust or 80% for a listed trust shall be in real property and single purpose companies most of the time.

## **Liquid Assets**

For an unlisted trust, 20% of the value of the fund must at all times be in the form of liquid assets.

## **Trust Borrowings**

No assets of the property trust can be pledged to secure borrowings unless the prior specific approval of the SC has been obtained. At any time, the borrowings of the trust must not exceed 10% of the gross assets of the trust unless otherwise approved by the SC.

## **Frequency of Valuation**

The trustee, on the recommendation of the manager should cause a valuation of any parcel of real property to be carried out for unlisted trusts, at least once in every 18 months; and for listed trusts, at least 2 years after the last valuation but not later than 3 years after the last valuation. Such revaluation must be approved by the SC before being incorporated in the accounts.

## **Property Management**

The properties of the trust must be managed by a property manager appointed by the trustee.

## **Accounts to Unit Holders**

The audited yearly accounts must be forwarded to unitholders within two months from the end of the period.

## **GUIDELINES FOR CLOSED-END FUNDS**

### **Issued and paid-up capital**

A closed-end fund must have a minimum issued and paid-up share capital of RM100 million comprising ordinary shares of RM1.00 each.

### **Price**

The initial price shall be at RM1.00 per share. However the closed-end fund may apply to price the shares at above RM1.00 if justification can be given for doing so.

### Shareholding spread

At least 25% of the issued and paid-up share capital of the closed-end fund must be in the hands of the public, provided that at least 10% or 15 million, whichever is greater, is held by not less than 500 shareholders holding not more than 30,000 shares and not less than 1,000 shares each.

### Investment Policies/Objectives and Limits

A closed end-fund shall not change its investment policies and objectives within the first three years from the date it is listed, and any proposal for a change thereafter must be informed to the SC and KLSE. The fund may invest in securities subject to the following:

#### 1 Investment in securities of listed entities

##### 1.1 Investments by a closed-end fund in the securities of any other listed entity shall not exceed

- (i) 10% of the closed-end fund's net asset value; or
- (ii) 10% of the issued capital of the listed entity,

whichever is lower.

##### 1.2 For the purpose of calculating the limits imposed by the above, investments held by the closed -end fund in all securities of the listed entity shall be aggregated.

#### 2 Investments in securities listed on approved foreign stock exchanges

##### 2.1 A closed-end fund may invest up to a maximum of 20% of its net asset value in securities listed on approved foreign exchanges. For this purpose the SC may prescribe any foreign stock exchange as an approved exchange and may limit its approval to a particular class or classes of securities on the foreign stock exchange.



- 2.2 The SC reserves the right to vary or revoke its approval of any foreign stock exchange or of any class or classes of securities in relation to paragraph 2.1. Where the SC revokes its approval of any foreign exchange, or any class or classes of securities, the closed-end fund shall divest such investments within a reasonable period as may be prescribed by the SC.

### 3 Investments in other investment vehicles

- 3.1 A closed-end fund shall not invest in other collective investment vehicles unless it is the most appropriate investment mechanism for investing in a particular country.

### 4 Investment in securities of unlisted companies

- 4.1 A closed-end fund may invest a maximum of 10% of its net asset value at all times in unlisted Malaysian companies.

### 5 Derivatives

- 5.1 A closed-end fund with the ability and competence to invest in derivatives may do so with the prior written approval of the SC.

### 6 Foreign exchange transactions

- 6.1 A closed-end fund may only enter into foreign exchange transactions that are incidental to the management of its investments.

### 7 Restrictions on borrowing and lending

- 7.1 A closed-end fund shall not have borrowings exceeding 30% of its net asset value at any time.

- 7.2 A closed-end fund shall not grant or guarantee any credit facility.



### **Method of offering securities**

A closed-end fund may offer securities by way of (i) a public issue, or (ii) a public issue and either an offer for sale, a private placement, or both.

### **Fund Manager and Designated Person**

A closed-end fund is required to appoint either a fund manager, who shall also appoint a designated person within its organisation or a designated person only, in the event that the investments of a closed end-fund are internally managed. The fund manager and the designated person must be approved by the SC.

The fund manager which must be a company authorised to deal in securities pursuant to Part IV of the Securities Industry Act, 1983, must have a shareholders' fund of not less than RM2 million and a minimum track record of not less than 3 years in the management of funds.

A designated person must be one who is authorised to deal in securities pursuant to Part IV of the Securities Industry Act 1983, and must have at least 3 years' experience in investment management.

### **Custodian**

A custodian, approved by the SC, must be appointed by a closed-end fund to hold or ensure the safe-keeping of the investments of the fund. The custodian which must be a Malaysian incorporated public limited company is independent of the fund manager.